

REMARKS

The Examiner required election between Group I (Claims 1-4, 8-10, 15, and 17) and Group II (Claims 5-7, 11-14, 16, and 18). The Examiner asserted that the Group I claims and Group II claims are distinct from each other as separately usable subcombinations. The Examiner noted their "separate status in the art" and noted that the Group I claims are classified in class 455, subclass 227 whereas the Group II claims are classified in class 370, subclass 490. Because the inventions were shown to be distinct, the Examiner concluded that restriction is proper.

It is noted that M.P.E.P. Section 803 discusses when restriction in applications is proper, and states that: "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicant respectfully submits that the "serious burden" for the *prima facie* case for restriction has not been shown.

The Examiner has indicated that the claims of Group I are classified in class 455, whereas the claims of Group II are classified in class 370. In the Manual of Classification, however, the description for Class 455, Telecommunications, also references Class 370 (see Section III, "References to Other Classes")(the relevant pages from the Manual are attached as Appendix A). In particular, Class 370, Subclass 227 refers to Subclass 130, which instructs examiners to "see or search" Class 370, the class for the Group II claims (see the Manual at page 455-50 and page 455-28). Thus, the Manual instructs examiners searching the classification for the Group I claims to also search the class for the Group II claims.

Similarly, examiners searching the classification for the Group II claims are instructed to search the class for the Group I claims: Class 370, subclass 490 refers to subclass 489, which instructs searching in subclass 485, which instructs to "see or search" in class 455 (see the Manual at page 370-42 and 370-43).

It is submitted that searching the classification of the Group I claims will lead to searching the classification of the Group II claims, and searching the Group II claims

classification will lead to searching the Group I claims classification. Therefore, it is respectfully submitted search and examination of the application can be accomplished without serious burden, because searching the classification for one group of claims would lead to searching the classification in which the other group of claims is classified. Under the guidance of M.P.E.P. Section 803, it is submitted that this application must be examined on the merits, without restriction.

For the reasons stated above, it is requested that the examiner withdraw the restriction requirement and proceed with examination of all the pending claims in the application, without restriction or division.

Respectfully submitted,



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